

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD.,

Plaintiff,

vs.

QK HOTEL, LLC, et al.,

Defendants,

and

FRANKLIN K. MUKAI, et al.,

Third-Party Plaintiffs,

vs.

SPORTS SHINKO (USA) CO., LTD.,
et al.,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,
LTD., et al.,

Third-Party Defendants/
Counterclaimants,

vs.

QK HOTEL, LLC, et al.,

Third-Party Counterclaim
Defendants.

AND CONSOLIDATED CASE

CV 04-00124 ACK-BMK

CV 04-00127 ACK-BMK

CONSOLIDATED CASES

[PROPOSED]
ORDER GRANTING KG
PARTIES' SECOND AMENDED
MOTION TO COMPEL
DISCOVERY AND TO SET
SCHEDULING ORDER

[PROPOSED]
ORDER GRANTING KG PARTIES' SECOND AMENDED MOTION TO
COMPEL DISCOVERY AND TO SET SCHEDULING ORDER

Defendants, Counterclaimants and Third-Party Plaintiffs KG Holdings,
LLC, QK Hotel, LLC and OR Hotel, LLC ("KG Parties") Second Amended

Motion to Compel Discovery and for a Scheduling Order (“Motion to Compel”) was filed on May 4, 2007 and was heard on June 1, 2007.

In its memorandum in opposition, plaintiff Sports Shinko Co., Ltd. (“SS-Japan”) acknowledged that the intercompany debt alleged to be owing from Sports Shinko (Waikiki) Corporation to SS-Japan that forms the basis for SS-Japan’s status as a creditor such that it may sue under the Hawaii Uniform Fraudulent Transfer Act, Hawaii Revised Statutes Ch. 651C (“HUFTA”) is a ¥10 billion note dated June 5, 1990 (the “debt”), a purported copy of which is attached to SS-Japan’s memorandum in opposition as Exhibit 2. SS-Japan also acknowledges that this debt is recorded in the exhibit to the Loan Purchase Agreement and Supplement to Loan Purchase Agreement between SS-Japan and South Wind Realty Finance Cayman Company dated December 30, 2004.

The Court accepts the foregoing acknowledgments of SS-Japan and finds as follows:

A. The foregoing ¥10 billion alleged debt is the sole debt that forms the basis for SS-Japan’s status as a creditor such that it may sue under HUFTA.

B. Exhibit 9A to the Motion contains all the documents that evidence the formation of the foregoing debt.

The Court, considering the record herein and the arguments of counsel, and good cause appearing therefore, hereby orders as follows:

1. SS-Japan shall state the original principal balance of the debt, and rate(s) of interest applied since the debt was allegedly formed on June 5, 1990.
2. SS-Japan shall identify the present owner of the debt and all others who have owned the debt since January 25, 2002.
3. If ownership of the debt has changed since January 25, 2002, SS-Japan shall produce all documents related to the changed ownership, including documentation of the relinquishment of rights of the prior owner(s).
4. SS-Japan shall state the balance due on the debt as of the date of transfer of the Ocean Resort Hotel and Queen Kapiolani Hotel from SS-Waikiki to OR Hotel, LLC and QK Hotel, LLC, respectively.
5. SS-Japan shall state the balance due on the debt as of the calendar quarter ending prior to the date of SS-Japan's response to this Order.
6. SS-Japan shall produce a ledger showing all debits and credits to the debt from and after June 5, 1990, including without limitation, payments, charges, offsets, write-offs and interest assessed, until the end of the calendar quarter ending prior to SS-Japan's response to this Order.
7. SS-Japan shall make a supplemental production of documents that consists of all documents used to respond to this Order, and only those documents.
8. If an original signed promissory note exists to support the debt, SS-Japan will make it available to counsel for the KG Parties for inspection.
9. SS-Japan shall produce the general ledgers, including transaction details, that are the source of information for the balance sheets, income statements and trial balances for SS-USA and its subsidiaries as of December 31, 2004 (produced by SS-Japan as documents numbered 256 0253 – 256 0282).

SS-Japan shall fully comply with this order no later than _____.

IT IS SO ORDERED

DATED: Honolulu, Hawaii, _____.

The Honorable Barry M. Kurren
United States Magistrate Judge